

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

VINCENT E. ROPER.

Petitioner,

V.

TIMOTHY WENGLER,

Respondent.

Case No. C08-5049BHS/JKA

ORDER DIRECTING
SERVICE AND RETURN,
§ 2254 PETITION

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates' Rules MJR 3 and MJR 4. Petitioner has amended the petition to name the person who currently has custody of him instead of the State of Washington (Dkt # 7). The first page of Dkt. # 7 will become the first page of the petition and is substituted for page one of Dkt # 5. The court will provide two copies of the petition. One copy will be sent to Mr. Wengler at the Prairie Correctional Facility, P.O. Box 500 Appleton MN 56208. The other copy will be sent as a courtesy copy to the Washington State Attorney General's Office.

1). The clerk shall arrange for service by certified mail upon respondent, a copy of the petition, of all documents in support thereof, and of this Order. All costs of service shall be

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1 advanced by the United States. The Clerk shall assemble the necessary documents to effect service.
2 The Clerk shall send petitioner's counsel a copy of this Order, the General Order. The clerk will
3 also send a courtesy copy of the petition to the Washington State Attorney General's Office Criminal
4 Justice Division.

5 (2) Within forty-five (45) days after such service, respondent shall file and serve an
6 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District
7 Courts. As part of such answer, respondents should state whether petitioner has exhausted available
8 state remedies, whether an evidentiary hearing is necessary, and whether there is any issue of abuse
9 of delay under Rule 9. Respondent shall not file a dispositive motion in place of an answer without
10 first showing cause as to why an answer is inadequate. Respondent shall file the answer with the
11 Clerk of Court and serve a copy of the answer upon petitioner.

12 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon
13 receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday after the
14 answer is filed, petitioner, through counsel, may file and serve a response not later than on the
15 Monday immediately preceding the Friday appointed for consideration of the matter, and respondent
16 may file and serve a reply brief not later than on the Thursday immediately preceding the Friday
17 designated for consideration of the matter.

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20 DATED this 17 day of March, 2008.

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/S/ J. Kelley Arnold
J. Kelley Arnold
United States Magistrate Judge

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